

S/N 10/747,853
Attorney Ref. No. 659-1713
Client Ref. No. 19120

As set forth in the Office Action, the Examiner has not asserted that the inventions of Groups I and II are independent (Office Action at 2) (see also MPEP 806.06). Instead, the Examiner has asserted that inventions are distinct, purportedly because “the article may be formed by attaching the absorbent insert prior to folding and bonding of the body panel web” (Office Action at 2).¹ Without disputing the accuracy of that statement, Applicants respectfully submit that such a distinction, even if true, has no bearing on whether the claims are distinct.

In particular, the method claims do not recite and are not limited by any particular order of performing the recited steps. As such, the method claims cover the steps performed in any order, or simultaneously. *Altiris, Inc. v. Symantec Corp.*, 318 F.3d 1363, 1369-71 (Fed. Cir. 2003).

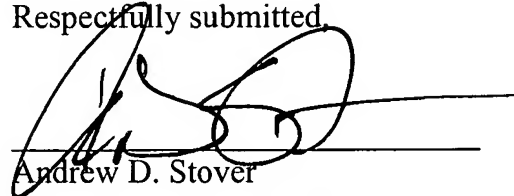
Therefore, the product as claimed cannot be made by “another and materially different process” as asserted by the Examiner, since the “different” process advanced by the Examiner is in fact the claimed process. Since the reasons provided by the Examiner do not support restriction, Applicants respectfully request that the claims be maintained in this same application (see MPEP 803 “Examiners must provide reasons and/or examples to support conclusions;” MPEP 808.02 Examiner “must explain why there would be a serious burden on the examiner if restriction is not required.”)

¹ Applicants respectfully submit that the process as claimed (e.g., claim 10) cannot be used to make another and materially different product, and that the product as claimed (e.g., claim 1) cannot be made by another and materially different process (MPEP 806.05(f); Office Action at 2) (compare claims 1 and 10).

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Any questions concerning this election should be directed to the undersigned attorney at (312) 321-4713.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew D. Stover", is written over a horizontal line.

Andrew D. Stover
Registration No. 38,629
Attorney for Applicant

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200